



November 2, 2017

***Via ECFS***

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, D.C. 20554

Re: Request for Comment on Petition for Declaratory Ruling Filed by the Credit Union National Association, CG Docket No. 02-278

Dear Ms. Dortch:

Public Service Credit Union (PSCU) of Lone Tree, Colorado, writes in support of the Petition for Declaratory Ruling (Petition) filed by the Credit Union National Association (CUNA).<sup>1</sup> In the Petition, CUNA requests that the Federal Communications Commission (Commission) adopt an established business relationship exemption from the Telephone Consumer Protection Act<sup>2</sup> (TCPA) for credit union informational calls and text messages to cell phones.<sup>3</sup> Alternatively, CUNA requests that the Commission utilize its express authority to exempt calls and texts that are without charge to the called party.<sup>4</sup>

PSCU is a Colorado state-chartered credit union founded in 1938. PSCU holds assets in excess of \$2.3 billion and has more than 225,000 members. The credit union provides a full array of financial products and services to members along the Front Range of Colorado and beyond. Its members have access to twenty-eight PSCU branches and hundreds of shared-branch locations across the country.

As a member-owned financial cooperative, the credit union's mission is to help its members afford life. To accomplish that mission, PSCU must be able to engage freely with its member-owners. Unfortunately, the TCPA as it is currently interpreted and enforced by the Commission poses serious barriers to those communications. It seems the current state of the TCPA is a complex minefield, and the credit union's management is hesitant to venture into such dangerous territory. Faced with potentially draconian litigation costs, PSCU has been forced to limit or eliminate many communications that would help it serve its members better. These communications include governance-related communications, notifications regarding fraudulent activity, and information about overdue payments. Even the Consumer Financial Protection Bureau (CFPB)

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<sup>1</sup> Petition for Declaratory Ruling of the Credit Union National Association, *Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, CG Docket No. 02-278 (filed September 29, 2017).

<sup>2</sup> Telephone Consumer Protection Act of 1991, 47 U.S.C. § 227 et seq.

<sup>3</sup> *Petition* at ii.

<sup>4</sup> *Petition* at iii.



supports informational communication with members via text messages,<sup>5</sup> but the TCPA curtails the credit union's ability to engage in these member-friendly communications.

As noted in CUNA's Petition, PSCU may make informational calls to residential lines without prior consent—even using advanced calling technologies or prerecorded messages—but the credit union is precluded from making the identical calls to cell phones without prior express consent. PSCU knows many—perhaps most—of its members utilize cell phones as their primary or only means of making and receiving phone calls. Moreover, most of those cell phones use plans that include unlimited calls and texts. It is truly a constraint on the institution—and its member-owners—to be forced into an antiquated framework that fails to acknowledge the present realities of communications technology.

PSCU fully supports an established business relationship exemption; such an exemption would eliminate uncertainty as to whether a number may be called for informational purposes. This would enable PSCU to better serve its members and help them afford life. In the alternative, PSCU would also support the Commission's exercise of its authority to exempt calls and texts that are made without charge to the called party. Although this alternative would not eliminate all uncertainty, it would significantly mitigate the legal risks faced by PSCU.

PSCU strongly encourages the Commission to grant CUNA's request for a declaratory ruling.

Respectfully,

A handwritten signature in black ink, appearing to read "Benjamin P. Metzger", with a stylized flourish at the end.

Benjamin P. Metzger, Esq.  
Staff Attorney  
Public Service Credit Union

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<sup>5</sup> CFPB Commissioner Richard Cordray acknowledged, "...another positive development, which is the decision some banks and credit unions have made to provide consumers with real-time information about the funds in their accounts available to be spent. They are doing this through various means, including online banking and text and e-mail alerts, which can reduce the risks that consumers inadvertently overspend their accounts." *Prepared Remarks of CFPB Director Richard Cordray at a Field Hearing on Checking Account Access*, February 6, 2016, available at <https://www.consumerfinance.gov/about-us/newsroom/prepared-remarks-of-cfpb-director-richard-cordray-at-a-field-hearing-on-checking-account-access/>.